

Update on Contract

Introduction

Establishing liability

Contract formation	1
<i>Consideration</i>	1
<i>Certainty</i>	4
<i>The objective approach</i>	6
Other avenues for imposing liability	6
<i>Estoppe</i>	6
Collateral obligations and tenders	9

Vitiating elements

Mistake	13
<i>Unilateral mistake</i>	14
<i>Common mistake</i>	14
<i>Mutual mistake</i>	15
<i>Rectification</i>	16
Undue influence	18
<i>The categories</i>	18
<i>The position of third parties</i>	19
Unconscionable contract	23
Non est factum	24
Economic duress	25
Frustration	26
Conclusion	27

Accord and satisfaction

Interpretation

Extrinsic evidence: the "factual matrix"	33
Pre-contract negotiations	37
Subsequent conduct	37
The relevance of interpretation	38

Misrepresentation

In trade	42
Misrepresentation / misleading conduct	42
<i>Contractual Remedies Act 1979</i>	42
<i>Fair Trading Act 1986</i>	43
<i>Mental element</i>	45
<i>Conclusion</i>	45
Inducement	45
<i>Contractual Remedies Act 1979</i>	45

<i>Fair Trading Act 1986</i>	46
Damages	46
Exclusion clauses and disclaimers	47
Contractual Remedies Act 1979	47
<i>Fair Trading Act 1986</i>	47
Time limits	48
Parties	48
Defendants	48
Plaintiffs	48
Cancellation for breach and misrepresentation	
Introduction	49
Grounds for cancellation	49
Process	51
Effect of cancellation	51
The scope of the Contractual Remedies Act	52
Cancellation: Other statutes	
The Fair Trading Act 1986	55
The Sale of Goods Act 1908	55
The Consumer Guarantees Act 1993	56
Conclusion	58
Miscellaneous	
Contracts Enforcement Act 1956	59
Bank cheques	59
Electronic communication	59
The Contracts Privity Act 1982	60
The Illegal Contracts Act 1970	60
Review of contract statutes	61
Consumer Guarantees Act 1993	61
Vienna Convention on Sales	61
The McLaren Maycroft rule	62
Problems	
Session 1	63
Question 1	63
Question 2	64
Session 2	65
Question 3	65
Question 4	66
Index of cases	67
Appendix 1: Contractual Mistakes Act (1977)	
Appendix 2: Contractual Remedies Act (1979)	

Appendix 3: Fair Trading Act (1986) ss 9 and 43